



General Assembly

January Session, 2017

Raised Bill No. 7256

LCO No. 5119



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING REVISIONS TO CERTAIN CRIMINAL JUSTICE
STATUTES AND THE REPORTING OF THE DEATH OF ANY PERSON
IN STATE CUSTODY.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2017*) The department head, as
2 defined in section 4-5 of the general statutes, including the
3 Commissioner of Education, or the Chief Justice of the Supreme Court
4 shall promptly notify the Division of Criminal Justice of any death of a
5 person in the care, custody or control of any person or entity under the
6 jurisdiction of such department head or justice.

7 Sec. 2. Subsection (b) of section 53a-70c of the general statutes is
8 repealed and the following is substituted in lieu thereof (*Effective*
9 *October 1, 2017*):

10 (b) Aggravated sexual assault of a minor is a class A felony and any
11 person found guilty under this section shall, for a first offense, be
12 sentenced to a term of imprisonment, [of] twenty-five years of which
13 may not be suspended or reduced by the court and, for any subsequent

14 offense, be sentenced to a term of imprisonment of fifty years which
15 may not be suspended or reduced by the court.

16 Sec. 3. Subsection (c) of section 53a-167c of the general statutes is
17 repealed and the following is substituted in lieu thereof (*Effective*
18 *October 1, 2017*):

19 (c) In any prosecution under this section involving assault of a
20 health care employee, as defined in section 19a-490q, it shall be [a] an
21 affirmative defense that the defendant is a person with a disability as
22 described in subdivision (13), (15) or (20) of section 46a-51 and the
23 defendant's conduct was a clear and direct manifestation of the
24 disability. For the purposes of this subsection, "mental disability" does
25 not include any abnormality manifested only by repeated criminal or
26 antisocial conduct.

27 Sec. 4. Subsections (d) and (e) of section 54-47aa of the general
28 statutes are repealed and the following is substituted in lieu thereof
29 (*Effective October 1, 2017*):

30 (d) A telecommunications carrier shall disclose call-identifying
31 information or the content of a subscriber's or customer's
32 communications or geo-location data and a provider of electronic
33 communication service or remote computing service shall disclose
34 basic subscriber information or the content of a subscriber's or
35 customer's communications or geo-location data to a law enforcement
36 official, as directed by an order pursuant to subsection (b) of this
37 section when [an] such order is issued. [pursuant to subsection (b) of
38 this section.]

39 (e) Not later than forty-eight hours after the issuance of an order
40 pursuant to subsection (b) of this section, the law enforcement official
41 shall mail notice of the issuance of such order to the subscriber or
42 customer whose call-identifying information or basic subscriber
43 information is the subject of such order, except that such notification
44 may be delayed for a period of up to ninety days upon the execution of

45 a written certification of such official to the judge who authorized the
46 order that there is reason to believe that notification of the existence of
47 the order may result in (1) endangering the life or physical safety of an
48 individual, (2) flight from prosecution, (3) destruction of or tampering
49 with evidence, (4) intimidation of potential witnesses, or (5) otherwise
50 seriously jeopardizing the investigation. The law enforcement official
51 shall maintain a true copy of such certification. During such ninety-day
52 period, the law enforcement official may request the court to extend
53 such period of delayed notification. Such period may be extended
54 beyond ninety days only upon approval of the court. The applicant
55 shall file a copy of the notice with the clerk of the court [that issued
56 such order] for the geographical area within which any person who
57 may be arrested in connection with or subsequent to the execution of
58 the order would be presented, and said notice shall include the case
59 number assigned to such investigation pursuant to subsection (b) of
60 this section. If information is provided in response to the order, the
61 applicant shall, not later than ten days after receiving such
62 information, file with the clerk a return containing an inventory of the
63 information received. Such return and inventory shall include the case
64 number assigned to such investigation pursuant to subsection (b) of
65 this section, and such return and inventory shall remain sealed until
66 the copy of the notice is filed with the clerk pursuant to this section. If
67 a judge finds there is a significant likelihood that such notification
68 would seriously jeopardize the investigation and issues an order
69 authorizing delayed notification under this subsection, the
70 telecommunications carrier or provider of electronic communication
71 service or remote computing service from whom the call-identifying
72 information or basic subscriber information is sought shall not notify
73 any person, other than legal counsel for the telecommunications carrier
74 or provider of electronic communication service or remote computing
75 service and the law enforcement official that requested the ex parte
76 order, of the existence of the ex parte order. Any information provided
77 in response to the court order shall be disclosed to the defense counsel.

78 Sec. 5. Subsection (f) of section 54-142a of the general statutes is
79 repealed and the following is substituted in lieu thereof (*Effective*
80 *October 1, 2017*):

81 (f) Upon motion properly brought, the court or a judge [thereof] of
82 such court, if such court is not in session, [may] shall order disclosure
83 of such records (1) to a defendant in an action for false arrest arising
84 out of the proceedings so erased, or (2) to the prosecuting attorney and
85 defense counsel in connection with any perjury charges which the
86 prosecutor alleges may have arisen from the testimony elicited during
87 the trial, or any false statement charges, or any proceeding held
88 pursuant to section 53a-40b of chapter 952, or (3) counsel for the
89 petitioner and the respondent in connection with any habeas corpus or
90 other collateral civil action in which evidence pertaining to a nolle or
91 dismissed criminal charge may become relevant. Such disclosure of
92 such records is subject also to any records destruction program
93 pursuant to which the records may have been destroyed. The jury
94 charge in connection with erased offenses may be ordered by the judge
95 for use by the judiciary, provided the names of the accused and the
96 witnesses are omitted therefrom.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	New section
Sec. 2	<i>October 1, 2017</i>	53a-70c(b)
Sec. 3	<i>October 1, 2017</i>	53a-167c(c)
Sec. 4	<i>October 1, 2017</i>	54-47aa(d) and (e)
Sec. 5	<i>October 1, 2017</i>	54-142a(f)

Statement of Purpose:

To provide notification to the state's attorney of the death of an individual in the care or custody of a state agency or department; to refine the law protecting health care workers from on-the-job violence; to correct oversights in public act 16-148; to address the issue raised in *State v. Apt.*, 319 Conn. 494 (2015) concerning the disclosure of erased records, to make such disclosure mandatory, and to make such

disclosure available for use in connection with collateral matters in which evidence of a nolle or dismissed criminal charge may become relevant when the petitioner challenges the validity of a guilty plea.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]